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Attorneys for Debtor
Pacific Thomas Corporation

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

In re:

Case No. 12-46534

Pacific Thomas Corporation

Chapter 11

Debtor

**DEBTOR'S STATUS UPDATE
REGARDING ITS THIRD AMENDED
DISCLOSURE STATEMENT**

Date: December 12, 2013

Time: 1:00 p.m.

Place: **Courtroom 215**

Judge: Hon. M. Elaine Hammond

On November 13, 2013, Debtor filed its Third Amended Disclosure Statement that Bank of the West and Summit Bank objected to on November 27, 2013. Debtor hereby provides the Court with Debtor's Third Amended Disclosure Statement Status Update regarding its Third Amended Disclosure Statement and replies to the objections to its Third Amended Disclosure Statement thereto as follows:

1 **1. Thorofare's Updated Loan Commitment**

2 Debtor has recently received a slightly revised loan commitment letter that Debtor
3 believes will resolve the objection creditors' concerns regarding the reliability and firmness of
4 Thorofare's loan offer. The terms of the loan (Option A), i.e. loan amount, interest rate, loan term,
5 etc., remain identical to Thorofare's conditional commitment letter as attached to Debtor's Third
6 Amended Disclosure Statement. Attached as **Exhibit A** is a true and correct copy of Thorofare's
7 updated commitment letter, which is not "speculative" in any way or form.

8 Debtor also respectfully points out that the Third Amended Disclosure Statement clarifies
9 that the refinancing portion of the plan will be "through a proposed loan by Thorofare Capital
10 (formerly referred to as Option A)." As such, Debtor clearly identified which loan amount the Debtor
11 will be borrowing from Thorofare: \$6,525,359, which **Exhibit A** confirms as well. Debtor will move
12 the court to approve the proposed financing as soon as Debtor's Disclosure Statement was approved.

13 Furthermore, pursuant to *Nite Lite*, a provision in a plan providing for a sale of the reorganized
14 debtor's assets upon default, i.e. if the Debtor is not able to repay the refinance loan on its maturity
15 date, is sufficient and does not violate the feasibility standard. *In Re Nite Light Inns*, 17 B.R. 367,
16 370. Debtor's Third Amended Disclosure Statement and Proposed Plan contains a liquidation
17 provision, which brings the plan in compliance with 11 U.S.C. § 1129(a)(11) and renders it
18 feasible. See, *inter alia*, Section 3.04 and 4.02.1 of the Third Amended Disclosure Statement.

19 **2. New Value from a Third-Party-Owned Hawaii Property Sufficient for Highest
20 Estimated Administrative Claims Amount.**

21 The Debtor respectfully points out that it fully and adequately disclosed the amount of
22 administrative fees the Chapter 11 Trustee estimates and the amount the Debtor estimates the
23 administrative fees at. Even if the administrative fees should be as high as \$1,000,000, the Debtor
24 has shown that it will have the necessary funds to pay all court-approved administrative claims.
25 See Third Amended Disclosure Statement, p. 39:4-7.

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1 Debtor also adequately disclosed where the new value will stem from, namely the sale of a
2 Hawaii real property by an insider and attached a respective listing agreement as Exhibit O to its
3 Third Amended Disclosure Statement. Nonetheless, Debtor hereby supplements further
4 information regarding the Hawaii property. Attached hereto as **Exhibit B** are true and correct
5 copies of preliminary title report for the different parcels that the Molokai property is comprised
6 of. Attached as **Exhibit C** is a true and correct copy of the fully executed listing agreement.
7 Thomas Land Investments agreed to deed the property over to the Debtor in the unlikely event
8 that it should not be able to sell it prior to plan confirmation. See **Exhibit H**. Attached as **Exhibit**
9 **I** are true and correct copies for the different parcels of the real property's 2013 tax assessments
10 and a map showing said parcels, all of which were obtained from the Hawaii Information Service.

11 **3. Debtor's Post-Confirmation Management**

12 **a. The Debtor's Search for a CEO**

13 In its Third Amended Disclosure Statement, Debtor disclosed its objective search
14 criteria for a Post-Confirmation CEO of the Debtor. Such disclosure is appropriate and adequate
15 as it gives the creditors the information they need to decide whether they will trust Debtor's post-
16 confirmation management. However, to provide further assurances for the parties in interest, the
17 Debtor presents that it has the following persons involved in its ad hoc Executive Search
18 Committee:

- 19 • Connie White, Community Staffing Resources
20 • Andrew Audet, Executive Search Consultant
21 • John Loh, Loh Realty
22 • James McMasters, Colliers International
• Dean Keller, Bancap Self Storage Group

23 The committee is currently considering several candidates and has not taken any decision
24 yet. All candidates, however, have relevant background and experience and are highly qualified
25 for the CEO position.

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1 As stated in Debtor's Third Amended Disclosure Statement, the CEO will provide
2 oversight and will be the key-decision maker with *final decision-making* authority for the
3 Reorganized Debtor; Randall Whitney will merely provide assistance in the operation of the
4 Reorganized Debtor's business.

5 Even though some creditors are attempting to depict Randall Whitney as not trustworthy
6 and unable to run the Debtor's business operations, it should be noted that Debtor's pre-
7 bankruptcy manager, Randall Whitney, is in fact highly recognized in the community for his
8 work. Debtor respectfully points out again that Randall Whitney recently received a resolution
9 from the City Council for the City of Oakland, California, for his outstanding work and
10 involvement in the community. See **Exhibit D**.

11 **b. Leasing and Management Contracts**

12 Attached hereto as **Exhibit E** is an updated leasing agreement from Colliers that is
13 signed by a Collier representative to show that it agreed to offer services to the Debtor according
14 to the terms of the agreement.

15 Attached hereto as **Exhibit F** is an updated management agreement from Loh
16 Realty/Wellington Property Company, which is signed by Mr. Loh, with a redacted, but otherwise
17 true and correct e-mail from Mr. Loh offering said agreement to Debtor.

18 **4. Adequate Information was Provided Regarding the Related Adversary Case**

19 Debtor respectfully points out that it disclosed sufficient information about adversary case
20 no. 13-04079. First of all, Debtor wants to emphasize that it is not a party to said adversary
21 proceeding but that the action was brought against Pacific Trading Ventures, Randall Whitney,
22 and Jill Worsley. The injunction Summit Bank references in and basis its objection on, was heard
23 the day Debtor's Third Amended Disclosure Statement was entered, and the injunction order was
24 not docketed until several days thereafter. Even though Debtor specifically stated in its Third
25 Amended Disclosure Statement that it only briefly summarized the case and pointed out that the
26 court's "docket and the Orders should be consulted for an exact description of their contents and

1 terms. In the event of any discrepancy between this summary and the docket or the Orders, the
2 terms of the docket and the Orders shall control...”, the Debtor attaches hereto as **Exhibit G** for
3 further disclosure the injunction order that was entered on November 18, 2013

4 **5. Treatment of Summit Bank’s Claim in Debtor’s Third Amended Disclosure**
5 Statement.

6 By complaining about Summit Bank’s unsecured claim being “now completely omit[ted]
7 from the Disclosure Statement...”, Summit Bank seems to overlook its treatment in Class 1.¹
8 Because of Summit Bank’s representation that it has a valid and recent appraisal that supports
9 their being fully secured, Debtor’s Third Amended Disclosure statement currently estimates that
10 Summit Bank’s entire claim amount is secured. Nonetheless, Debtor states that “in the event that
11 the Court enters a Final Order determining that the value of the Debtor’s interest in the Summit
12 Bank Note 1 Collateral is less than the Summit Bank’s Claim amount, then the unsecured balance
13 of the amount owed to Summit Bank (the balance of the Class 1 Claimant’s Claim less the value
14 of the Debtor’s interest in the Summit Bank Note 1 Collateral) shall be paid under Class 6A of the
15 Plan.” Third Amended Disclosure Statement, p.42-43.

16 In light of the foregoing, Debtor respectfully requests that the Court approves the
17 adequacy of Debtor’s Third Amended Disclosure Statement.

19 Dated: December 5, 2013

Respectfully submitted,

20 Matlock Law Group, P.C.

22 By: /s/Anne-Leith Matlock
23 Anne-Leith Matlock, Esq.
24 Attorneys for Debtor

25 ¹ Debtor also respectfully points out that Debtor’s plan does not propose a refinance of the Summit Bank
26 Collateral (and consequently no lump-sum payoff of the Summit Bank claim) but, instead, a repayment of Summit
Bank’s claim over the term of the plan. See Third Amended Disclosure Statement, p. 42.

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Debtor's Status Update

Case No. 12-46534